

PROGRAM IMPLEMENTATION AGREEMENT

BY AND BETWEEN

**THE UNITED STATES OF AMERICA
ACTING THROUGH**

THE MILLENNIUM CHALLENGE CORPORATION

AND

THE REPUBLIC OF SENEGAL

Dated as of September 16, 2009

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PROGRAM IMPLEMENTATION AGREEMENT

PREAMBLE

This PROGRAM IMPLEMENTATION AGREEMENT (this “**Agreement**”), dated as of September 16, 2009, is made by and between the United States of America, acting through the Millennium Challenge Corporation (“**MCC**”), and the Republic of Senegal (“**Senegal**”), acting through its Government (the “**Government**”) (individually a “**Party**” and collectively, the “**Parties**”).

RECITALS

WHEREAS, the Millennium Challenge Compact between the United States of America, acting through MCC, and Senegal, acting through the Government, signed in Washington, D.C. on September 16, 2009 (the “**Compact**”), sets forth the general terms on which MCC will provide funding of up to Five Hundred Forty Million United States Dollars (US\$540,000,000) to the Government for a Millennium Challenge Account program to reduce poverty through economic growth in Senegal;

WHEREAS, the Government has designated MCA-Senegal to carry out certain rights, responsibilities, and duties of the Government under the Compact; and

WHEREAS, the Parties wish to specify further the terms for implementing the Compact and the Program;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE 1.

GENERAL RESPONSIBILITIES OF THE PARTIES

Section 1.1 Definitions. Capitalized terms used in this Agreement and not defined in this Agreement have the meanings provided in the Compact. All other capitalized terms have the meanings provided in this Agreement.

Section 1.2 Role of the Government.

(a) Government Responsibilities. The Government will promptly take all necessary or appropriate actions to carry out the Government Responsibilities and to designate rights and responsibilities to entities, including MCA-Senegal, adequate to enable them (each a “**Permitted Designee**”) to oversee and manage the implementation of the Program on behalf of the Government.

(b) Government Undertakings. The Government hereby affirms, and shall ensure, that:

(i) Power, Authorization, Etc. The Government has the power and authority to execute, deliver, and perform its obligations under this Agreement and under each other agreement, certificate, or instrument contemplated hereby or by the Compact, and none of such actions violate or will violate any obligation of the Government.

(ii) Binding Obligation. This Agreement is a valid, binding, and legally enforceable obligation of the Government.

(iii) No Conflict. This Agreement, upon its ratification by the Government, , does not and will not, conflict with any international agreement or obligation binding on the Government, or any laws of Senegal.

(iv) Impoundment; Liens or Encumbrances. (1) no Program Assets will be subject to any impoundment, rescission, sequestration, liquidation, or to any provision of law now or hereafter in effect in Senegal that would have the effect of allowing any such impoundment, rescission, or sequestration and (2) no Program Asset will be subject to any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind (each a “***Lien***”), except with MCC’s prior written approval. In the event any Lien not so approved is imposed, the Government will promptly seek the release of such Lien and, if such Lien is required by a final and non-appealable court order, will pay any amounts due in order to obtain such release; *provided, however*, that the Government will apply national funds to satisfy its obligations under this Section 1.2(b)(iv) and no MCC Funding, accrued interest, or other Program Assets may be applied by the Government in satisfaction of its obligations under this Section 1.2(b)(iv).

Section 1.3 Role of MCA-Senegal.

(a) Designation of MCA-Senegal.

(i) Pursuant to Section 3.2(b) of the Compact, the Government has designated MCA-Senegal, an entity to be established through passage of a decree substantially in the form and substantially on the terms of the form of decree attached as Schedule 1 to Annex I to the Compact, to act on the Government’s behalf to implement the Program and to exercise and perform the Government’s rights and responsibilities with respect to the oversight, management, and implementation of the Program, including, without limitation, managing the implementation of the Projects and Activities, allocating resources, and managing procurements (the “***Designated Rights and Responsibilities***”). Prior to MCA-Senegal’s establishment, the Government has designated MFG-MCA to act on behalf of the Government with respect to the Compact and the Program. For the avoidance of doubt, the designation of MCA-Senegal will not relieve the Government of any of its obligations or responsibilities as set forth in the Compact, this Agreement, any Supplemental Agreement, or the Program Guidelines, for which the Government remains fully responsible.

(ii) The Government will ensure that MCA-Senegal is duly organized, sufficiently staffed, and empowered to exercise the Designated Rights and Responsibilities, and will cause MCA-Senegal to carry out fully and properly the Designated Rights and Responsibilities and its obligations under this Agreement and each other agreement, certificate, or instrument contemplated by this Agreement, the Compact, any Supplemental Agreement, and the Program Guidelines.

(iii) The “Accountable Entity” referenced in the Program Guidelines will be deemed to refer to MCA-Senegal, and all obligations assigned to the “Accountable Entity” in the Program Guidelines will be obligations of MCA-Senegal.

(b) Additional Government Undertakings with Respect to MCA-Senegal. The Government hereby affirms, and shall ensure, that:

(i) Power and Authorization. MCA-Senegal has the power and authority to (1) bind the Government to the full extent of the Designated Rights and Responsibilities and as contemplated by the Compact, this Agreement, any Supplemental Agreement, or the Program Guidelines, (2) execute and deliver each agreement, certificate, or instrument contemplated by the Compact, this Agreement, any Supplemental Agreement, or the Program Guidelines, and (3) perform its obligations under this Agreement, and each such other agreement, certificate, or instrument contemplated by this Agreement, the Compact, any Supplemental Agreement, or the Program Guidelines. None of such actions violate or will violate any obligation of the Government.

(ii) Government Responsibilities. MCA-Senegal (1) will properly and fully carry out the Designated Rights and Responsibilities, (2) will not assign, delegate, or otherwise transfer any of the Designated Rights and Responsibilities without the prior written consent of MCC (except as provided in Section 1.4 and Section 2.11(a) of this Agreement), and (3) will not undertake any activities, duties, or responsibilities other than the Designated Rights and Responsibilities without the prior consent of MCC.

(iii) Government Representations. MCA-Senegal will confirm each representation that it makes to MCC on behalf of the Government in any agreement, certificate, or instrument prior to providing such representation to MCC.

(iv) Autonomy. (1) no decision of MCA-Senegal is modified, supplemented, unduly influenced, or rescinded by any governmental authority, except by a final and non-appealable judicial decision and (2) the authority of MCA-Senegal will not be expanded, restricted, or otherwise modified, except in accordance with this Agreement, the Compact, any Supplemental Agreement, or the Program Guidelines.

(v) Constitution and Governance of MCA-Senegal. MCA-Senegal will conduct its operations and management in accordance with the Governing Documents and Governance Guidelines. To this end, MCA-Senegal will adopt the MCA-Senegal Bylaws, in

form and substance satisfactory to MCC, in accordance with the Governing Documents and the Governance Guidelines.

(vi) Funded Agreements. MCA-Senegal will provide the Fiscal Agent (and MCC if it so requests) a copy of each agreement that is funded (directly or indirectly) with MCC Funding, regardless of whether MCC has approval rights with respect to such agreement.

(vii) Insurance; Performance Guaranties. MCA-Senegal will, to MCC's satisfaction, cause all Program Assets to be insured (including, without limitation, through self-insurance) and will arrange such other appropriate insurance to cover against risks or liabilities associated with the operations of the Program, including, without limitation, by requiring providers of goods, works, or services for the Program to obtain adequate insurance and to post adequate performance bonds or other guaranties. MCA-Senegal (or, as appropriate and with MCC's prior approval, another entity) will be named as the payee on any such insurance and the beneficiary of any such guaranty or bonds. If not already named as the insured party, MCA-Senegal (and MCC, if it so requests) will be named as additional insureds on any such insurance. The Government will promptly notify MCC of the payment of any proceeds from claims paid under such insurance or guaranty, and will ensure that such proceeds will be used to replace or repair any lost or damaged Program Assets; *provided, however*, that, at MCC's election, such proceeds will be deposited in a Permitted Account as designated by MCA-Senegal or as otherwise directed by MCC. For the avoidance of doubt, MCC Funding may be used, to the extent permitted by the MCC Cost Principles, to pay the costs of the insurance required by this Section 1.3(b)(vii).

(viii) MCA-Senegal Indemnity. If MCA-Senegal is held liable under any indemnification or other similar provision of any agreement, then the Government will pay such indemnity in full on behalf of MCA-Senegal. In addition, the Government will indemnify and hold harmless each member of MCA-Senegal's Board (including the Observers) and any Stakeholder Committee(s), as well as each of MCA-Senegal's Officers and other employees, from any claim, loss, action, liability, cost, damage, or expenses incurred by such person in the performance of its duties on behalf of MCA-Senegal; *provided, however*, that the Government shall have no obligation to indemnify any such person if and to the extent that any such claims, losses, actions, liabilities, costs, damages, or expenses are attributable to the fraud, gross negligence or willful misconduct of such person; and *provided, further*, that the Government will apply national funds to satisfy its obligations under this Section 1.3(b)(viii) and no MCC Funding, accrued interest, or other Program Assets may be applied by the Government in satisfaction of its obligations under this Section 1.3(b)(viii).

Section 1.4 Implementing Entities. Subject to the terms of this Agreement and the Compact, MCA-Senegal may engage one or more Implementing Entities to implement any Project, or any Activities in connection therewith, to be carried out in furtherance of the Compact. MCA-Senegal will enter into an Implementing Entity Agreement with each Implementing Entity, in form and substance satisfactory to MCC, that sets forth, *inter alia*, the roles and responsibilities of such Implementing Entity and the Officer to whom such Implementing Entity will report.

ARTICLE 2.

IMPLEMENTATION FRAMEWORK

Section 2.1 Implementation Plan. The framework for implementation of the Program will be further elaborated in a set of documents, in form and substance satisfactory to MCC, consisting of (a) a Work Plan, (b) a Detailed Financial Plan, (c) an Audit Plan, and (d) a Procurement Plan (each, an “**Implementation Plan Document**” and collectively the “**Implementation Plan**”). MCA-Senegal will submit its proposed Implementation Plan for review and approval by MCC before the initial Disbursement of Program Funding and on at least an annual basis thereafter (or as frequently as may be otherwise required by the Program Guidelines, as the case may be). MCC will review the proposed Implementation Plan and may, as necessary, request MCA-Senegal to submit clarifications or adjustments. MCA-Senegal will submit an updated Implementation Plan or updated Implementation Plan Document during any quarter in which significant changes or modifications are made to a Project or to the Program (or, in the case of the Detailed Financial Plan, each quarter), or when MCA-Senegal determines that the expected results, targets, and milestones for the specified year are not likely to be achieved. In such instances, MCA-Senegal will submit a proposed revised Implementation Plan or updated Implementation Plan Document (as applicable) for MCC approval on the same date as the next Periodic Report. MCA-Senegal will ensure that the implementation of the Program is conducted in accordance with the Implementation Plan.

(a) Work Plan. MCA-Senegal will develop, adopt, and implement a work plan, in form and substance satisfactory to MCC, for the overall administration of the Program (the “**Work Plan**”). The Work Plan will set forth: (i) a detailed task list for each activity to be undertaken or funded by MCC Funding (in a level of detail satisfactory to MCC), (ii) process and output indicators and targets synchronized with the M&E Plan, (iii) conditions precedent to Disbursements (in addition to any set forth herein), (iv) procurement process steps, and (v) where appropriate, the allocation of roles and responsibilities for specific activities, performance requirements, and other programmatic guidelines and related expectations. MCA-Senegal will develop a separate annual Work Plan for (x) each Project identified in the Compact and (y) monitoring and evaluation.

(b) Detailed Financial Plan. The Multi-Year Financial Plan Summary for the Program, which is set forth in Annex II to the Compact, shows the estimated annual contribution of MCC Funding to administer and monitor and evaluate the Program, and to implement each Project (the “**Multi-Year Financial Plan**”). Except as MCC otherwise agrees in writing, MCA-Senegal will develop, adopt, and implement for each quarter for the upcoming year, and on an annual basis for each year of the remaining years of the Compact, a detailed financial plan setting forth funding requirements for the Program (including administrative costs) and for each Project, broken down to the sub-Activity level (or lower, where appropriate), and projected both on a commitment and cash requirement basis, substantially in the form of the “Detailed Financial Plan” posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC (each a “**Detailed Financial Plan**”).

(c) Audit Plan. MCA-Senegal will develop, adopt, and implement a plan, in accordance with the Audit Guidelines, for the audit of the expenditures of Covered Providers (the “**Audit Plan**”). The Audit Plan will be in form and substance satisfactory to MCC and will be adopted no later than sixty (60) days before the end of the first period to be audited.

(d) Procurement Plan. MCA-Senegal will prepare periodic procurement plans for acquiring goods, works, and consultant and non-consultant services needed to implement the Compact (each a “**Procurement Plan**”). Each Procurement Plan will be prepared and updated in accordance with the MCC Program Procurement Guidelines. In addition, prior to the initial Disbursement of Program Funding, MCA-Senegal will establish and adopt a bid challenge system (“**BCS**”) that provides suppliers, contractors, and consultants (interested parties) the ability to seek review of procurement actions and decisions. The organization, rules, and procedures of such BCS will be subject to MCC approval. Upon adoption by MCA-Senegal and MCC’s approval, MCA-Senegal will publish the BCS on the website operated by MCA-Senegal (the “**MCA-Senegal Website**”).

Section 2.2 Fiscal Accountability Plan. Except as MCC otherwise agrees, MCA-Senegal will develop, adopt, and implement a manual, in form and substance satisfactory to MCC, setting forth the principles, mechanisms, and procedures (the “**Fiscal Accountability Plan**”) that MCA-Senegal will use to ensure appropriate fiscal accountability for the use of MCC Funding, including, without limitation, the process to ensure that open, fair, and competitive procedures will be used in a transparent manner in the administration of grants or cooperative agreements and in the procurement of goods, works, and services. The Fiscal Accountability Plan will also include, *inter alia*, requirements with respect to: (a) budgeting, (b) accounting, (c) cash management, (d) financial transactions (receipts and payments), (e) opening and managing Permitted Accounts, (f) personnel and payroll, (g) travel and vehicle use, (h) asset and inventory control, (i) audits, and (j) reporting. After initial adoption, the Fiscal Accountability Plan will be revised periodically and such revisions will be adopted by MCA-Senegal and approved by MCC.

Section 2.3 M&E Plan. No later than ninety (90) days after Entry into Force, MCA-Senegal will develop, adopt, and implement an M&E Plan, in form and substance satisfactory to MCC. The M&E Plan will include a provision for an evaluation of each Activity. The M&E Plan will be developed, implemented, and updated in accordance with the MCC Policy for Monitoring and Evaluation of Compacts and Threshold Programs, and will serve as the primary governing document for M&E activities over the Compact Term.

Section 2.4 Tax Exemption. The Government, including MCA-Senegal, will take all appropriate actions to effectuate the tax exemption required by the Compact.

Section 2.5 Environmental and Social Accountability.

(a) Unless MCC and the Government agree otherwise in writing, the Government will ensure that activities undertaken, funded, or otherwise supported in whole or in part (directly or indirectly) by MCC Funding comply with the MCC Environmental Guidelines.

(b) The Government will ensure that MCA-Senegal will (i) undertake and complete any environmental and social assessments, environmental management plans, environmental and social audits, and resettlement action plans required under the laws of Senegal, the MCC Environmental Guidelines, this Agreement, the Compact, or any Supplemental Agreement, or as otherwise required by MCC, each in form and substance satisfactory to MCC, and (ii) implement to MCC's satisfaction any environmental and social mitigation measures identified in such assessments or plans.

(c) The Government will fund all necessary costs of environmental and social mitigation measures (including, without limitation, costs of resettlement) not specifically provided for in the budget for any Project.

Section 2.6 MCC Program Procurement Guidelines. In accordance with Section 3.6 and 8.2 of the Compact, the Government, including MCA-Senegal, will exclusively use the MCC Program Procurement Guidelines in the procurement (including solicitation) of all goods, works, and services, and the award and administration of contracts in furtherance of the Program financed by MCC Funding. With respect to Program procurements financed by the Government, the Government, including MCA-Senegal, will ensure that such procurements are consistent with the general principles set forth in Section 3.6 of the Compact. In addition, the Government will ensure that any bid challenges are conducted in accordance with the MCC Program Procurement Guidelines and the BCS.

Section 2.7 Gender Policy. Unless MCC and the Government agree otherwise in writing, the Government will ensure that activities undertaken, funded, or otherwise supported in whole or in part (directly or indirectly) by MCC Funding comply with the MCC Gender Policy.

Section 2.8 Notice; Incorporation.

(a) The Government will notify all providers of goods, works, and services (and all other entities or individuals receiving MCC Funding in connection with the Program) of the requirements of Section 2.7 of the Compact and will include, or ensure the inclusion of, the requirements of Section 2.7 of the Compact in all agreements with such providers of goods, works, and services (or such other recipients of MCC Funding, as applicable) if MCC is not a party to such agreements.

(b) The Government will include, or ensure the inclusion of, the requirements of:

(i) Sections 2.1(c) and 2.9(b) of this Agreement, Section 3.7 of the Compact, and paragraphs (b), (c), and (d) of Section 3.8 of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, on the one hand, and a Covered Provider that is not a non-profit organization domiciled in the United States, on the other hand;

(ii) Section 3.7 of the Compact and paragraphs (b) and (d) of Section 3.8 of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, on the one hand, and a Provider that does not meet the definition of a Covered Provider; and

(iii) Section 3.7 of the Compact and paragraphs (b), (c), and (d) of Section 3.8 of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, on the one hand, and a Covered Provider that is a non-profit organization domiciled in the United States.

Section 2.9 Reports; Notices.

(a) Unless MCC agrees otherwise in writing, MCA-Senegal will periodically provide to MCC, in form and substance satisfactory to MCC, the reports and information required by the Reporting Guidelines (each, a “**Periodic Report**”). MCA-Senegal will provide the Periodic Reports to MCC on the schedule specified in the Reporting Guidelines, and the Periodic Reports will be consistent with the Reporting Guidelines in all respects. As of the date hereof, the following Periodic Reports are required to be submitted under the Reporting Guidelines:

(i) On a quarterly basis:

(1) a narrative report setting forth the proposed use for the Disbursement in the upcoming quarter together with an explanation of the use of funds of the previous quarter and any adjustments to the Implementation Plan, substantially in the form of the “Narrative Report” posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC;

(2) a quarterly financial report of MCA-Senegal’s financial activities during the preceding quarter and documentation supporting any proposed cash requirements for the upcoming quarter, substantially in the form of the “Form of Quarterly Financial Report” posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC (the “**Quarterly Financial Report**”);

(3) an updated Detailed Financial Plan;

(4) a procurement performance report, setting forth a cumulative summary of executed procurement actions compared to the Procurement Plan approved by MCC for the preceding quarter, substantially in the form of the “Procurement Performance Report” posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC;

(5) a conditions precedent report, describing progress toward meeting conditions precedent to Disbursements of MCC Funding in the upcoming quarter, substantially in the form of the “Conditions Precedent Report” posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC; and

(6) an indicator tracking table, setting forth the performance indicators contained in the M&E Plan and tracking MCA-Senegal's progress against said indicators, substantially in the form of the "Indicator Tracking Table" posted on the MCC Website, as the same may be amended from time to time, and in any case in form and substance satisfactory to MCC.

(ii) On October 31 of each year of the Compact Term (or within thirty (30) days of any written request by MCC), MCA-Senegal will provide to MCC an annual supplemental report, in form and substance satisfactory to MCC, containing the following information:

(1) the progress made by the Government toward achieving the Compact Goal, Program Objective and Project Objectives;

(2) additional information on accomplishments not presented in the Periodic Reports;

(3) developments in Compact implementation related to the consultative process, donor coordination, and lessons learned; and

(4) any report or document required to be delivered to MCC in connection with the Program under the MCC Environmental Guidelines, any Audit Plan, or any Implementation Plan Document.

(b) MCA-Senegal will furnish, or use its best efforts to furnish, to MCC an audit report, in form and substance satisfactory to MCC, for each audit required under the Compact, other than audits arranged for by MCC, no later than ninety (90) days after the end of the period under audit, or such other time as may be agreed by MCC from time to time.

(c) If at any time during the Compact Term, the Government (or any other governmental authority of Senegal at a departmental, municipal, regional, or other jurisdictional level) materially reallocates or reduces the allocation in its national budget from the normal and expected resources that the Government (or such governmental authority, as applicable) would have otherwise received or budgeted, from external or domestic sources, or fails to timely distribute an allocation budgeted for the activities contemplated under the Compact or the Program, the Government must notify MCC in writing within thirty (30) days of such reallocation, reduction, or failure to distribute, such notification to contain information regarding the amount of the reallocation, reduction, or failure to distribute, the affected activities, and an explanation for the reallocation or reduction.

(d) In addition to the Periodic Reports, MCA-Senegal will provide to MCC within thirty (30) days of a written request by MCC, or as otherwise agreed by MCC and MCA-Senegal in writing, such other reports, documents, or information as MCC may request from time to time related to the Program, including, without limitation, any component of the Implementation Plan, the Fiscal Accountability Plan, or any Disbursement.

(e) MCA-Senegal will submit the Periodic Reports and any other reports required hereunder electronically if requested by MCC or if otherwise required by the Reporting Guidelines.

Section 2.10 Transactions Subject to MCC Approval. Each of the following transactions, activities, agreements, and documents requires MCC's prior written approval:

- (a) Disbursements;
- (b) the Implementation Plan (including each element or component thereof), the M&E Plan, and the Fiscal Accountability Plan, and any modification of any of the foregoing;
- (c) agreements between the Government and MCA-Senegal, and agreements in which any of the following are appointed, hired, or otherwise engaged (each, a “**Material Agreement**”):
 - (i) Auditor or Reviewer;
 - (ii) Fiscal Agent;
 - (iii) Procurement Agent;
 - (iv) Bank;
 - (v) Implementing Entity;
 - (vi) Outside Project Manager; and
 - (vii) a member of the Board (including any Observer) or any Officer of MCA-Senegal (including agreements regarding compensation for any such person);
- (d) any modification, termination, or suspension of a Material Agreement, or any action that would have the equivalent effect;
- (e) any agreement or transaction of MCA-Senegal that is not arm's-length;
- (f) any pledge of any MCC Funding or any Program Assets, or any guarantee, directly or indirectly of any indebtedness, or any incurrence of material indebtedness;
- (g) any decree, legislation, regulation, charter, contractual arrangement, or other document establishing or governing (other than public laws of general application to all public institutions), or relating to the formation, organization, or governance of, MCA-Senegal (including the Bylaws and any staffing plan), and all amendments thereof (each, a “**Governing Document**”);

- (h) any disposition, in whole or in part, liquidation, dissolution, winding up, reorganization, or other change of MCA-Senegal, including any revocation, modification of, or supplement to any Governing Document related thereto;
- (i) any change in character or location of any Permitted Account;
- (j) (i) any change of any member of the Board (including any Observer), of the member serving as the chairperson, or in the composition or size of the Board, and the filling of any vacant seat of any member of the Board (including any Observer), (ii) any change of any Officer of MCA-Senegal or in the composition or size of its management, and the filling of any vacant position of any Officer of MCA-Senegal, and (iii) any material change in the composition or size of any Stakeholder Committee;
- (k) any decision by MCA-Senegal to engage, to accept, or to manage any funds from any donor agencies or organizations in addition to MCC Funding during the Compact Term; and
- (l) any decision to amend, supplement, replace, terminate, or otherwise change any of the foregoing.

Section 2.11 Role of Certain Entities in Implementation.

(a) Outside Project Manager. MCA-Senegal will have the authority to engage qualified persons or entities to serve as outside project managers (each, an “***Outside Project Manager***”) in the event that it is advisable to do so for the proper and efficient day-to-day management of a Project; *provided, however*, that the appointment or engagement of any Outside Project Manager will be made using a competitive selection process and will be subject, if required by the MCC Program Procurement Guidelines, to approval by the Board and by MCC prior to such appointment or engagement. Upon such approval, MCA-Senegal may delegate, assign, or contract to the Outside Project Managers such duties and responsibilities as it deems appropriate with respect to the management of certain Implementing Entities and/or the implementation of the specific Projects; and *provided, further*, that MCA-Senegal will remain accountable for those duties and responsibilities and all reports delivered by the Outside Project Manager notwithstanding any such delegation, assignment, or contract and the Outside Project Manager will be subject to the oversight of the Fiscal Agent and Procurement Agent. Without limiting the foregoing, the Board may determine, subject to MCC approval, that it is advisable to engage one or more Outside Project Managers and instruct MCA-Senegal and, where appropriate, the Procurement Agent, to commence and conduct the competitive selection process for such Outside Project Manager.

(b) Fiscal Agent. MCA-Senegal will engage a Fiscal Agent who will be responsible for, *inter alia*, (i) ensuring and certifying that Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Fiscal Agent Agreement and the Bank Agreement, (ii) instructing the Bank to make Disbursements from a Permitted Account or requesting Disbursement be made directly to a provider as payment for goods, works, or services in accordance with the Common Payment System or any alternate

payment system approved by MCC, as the case may be, and in each case following applicable certification by the Fiscal Agent, (iii) providing applicable certifications for Disbursement Requests, (iv) maintaining proper accounting of all MCC Funding financial transactions, and (v) producing reports on Disbursements in accordance with established procedures set forth in the Fiscal Agent Agreement or the Bank Agreement. MCA-Senegal will enter into an agreement with the Fiscal Agent, in form and substance satisfactory to MCC, which sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions (the “**Fiscal Agent Agreement**”).

(c) Auditors and Reviewers. MCA-Senegal will engage one or more auditors as contemplated in the Audit Guidelines (each, an “**Auditor**”). As requested by MCC in writing from time to time, MCA-Senegal will also engage an independent (i) reviewer to conduct reviews of performance and compliance under the Compact, which reviewer will have the capacity to (1) conduct general reviews of performance or compliance, (2) conduct environmental and social audits, and (3) conduct data quality assessments in accordance with the M&E Plan, as described more fully in Annex III to the Compact, and/or (ii) evaluator to assess performance as required under the M&E Plan (each, a “**Reviewer**”). MCA-Senegal will select the Auditor(s) and/or Reviewer(s) in accordance with the Audit Guidelines and the M&E Plan, as applicable. MCA-Senegal will enter into an agreement with each Auditor or Reviewer, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review, or evaluation, including access rights, required form and content of the applicable audit, review or evaluation, and other appropriate terms and conditions (the “**Auditor / Reviewer Agreement**”).

(d) Procurement Agent. MCA-Senegal will engage a Procurement Agent to carry out and/or certify specified procurement activities in furtherance of the Compact and this Agreement. The criteria for selection of the Procurement Agent will be as set forth in the MCC Program Procurement Guidelines. MCA-Senegal will enter into an agreement with the Procurement Agent, in form and substance satisfactory to MCC, which sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring, and review of procurements and other appropriate terms and conditions (the “**Procurement Agent Agreement**”).

Section 2.12 Publicity; Transparency.

(a) MCA-Senegal will give appropriate publicity to the Compact as a program to which the United States, through MCC, has contributed, including, without limitation, by identifying Program Activity sites and marking Program Assets, all in accordance with the MCC “Standards for Corporate Marking and Branding” of which MCC has informed the Government in writing or by posting on the MCC Website.

(b) MCA-Senegal will make information concerning implementation of the Compact publicly available in accordance with the Compact, this Agreement, any Supplemental Agreement, or any Program Guidelines, including, without limitation, by posting the following documents in English on the MCA-Senegal Website in accordance with the Governance

Guidelines: (i) Compact, (ii) this Agreement, (iii) minutes of the meetings of the Board and minutes of the meetings of the Stakeholders Committees, in each case as they relate to MCA-Senegal; (iv) the M&E Plan, along with periodic reports on Program performance; (v) all environmental and social impact assessments for the Projects and supporting documents; (vi) all audit reports by an Auditor and any periodic reports or evaluations by a Reviewer; (vii) all Disbursement Requests; (viii) all reports required to be submitted to MCC under the terms of this Agreement (including, without limitation, the Periodic Reports); (ix) all procurement policies and procedures (including standard documents, procurement plans, contracts awarded, and the BCS) and any other procurement documents required to be made publicly available; (x) a copy of any legislation or other documents related to the formation, organization or governance of MCA-Senegal (except to the extent classified), including the Governing Documents and any amendments thereto; and (xi) such other materials as MCC may request; *provided, however*, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC will be subject to MCC's prior approval and must be consistent with any instructions provided by MCC in relevant Implementation Letters.

(c) Notwithstanding Section 2.12(b), information relating to procurements prior to the award of a contract and confidential information relating to MCA-Senegal's agreements with employees, contractors, and consultants will be excluded from the information and documents made publicly available; *provided, however*, that MCC and MCA-Senegal will mutually determine whether any information to be excluded is confidential.

(d) Upon the termination or expiration of the Compact, the Government must, upon MCC's request, cause the removal of any markings and any references to MCC in any publicity materials or on the MCA-Senegal Website.

(e) For the avoidance of doubt, the Government hereby agrees that MCC may use or disclose any information provided to it in any Disbursement Request, report, or other document developed or delivered in connection with the Program (i) to its employees, contractors, agents and representatives, (ii) to any United States inspector general or the General Accountability Office, or otherwise for the purpose of satisfying MCC's own reporting requirements, (iii) to post on its website for the purpose of making certain information publicly available and transparent, (iv) in connection with publicizing MCC and its programs, or (v) in any other manner.

ARTICLE 3.

DISBURSEMENT OF MCC FUNDING

Section 3.1 Disbursement Process.

(a) Disbursement Requests. MCA-Senegal may request Disbursements to be made under the Compact by submitting a written request substantially in the form of the "Form of Disbursement Request" posted on the MCC Website, as the same may be amended from time to

time (each a “**Disbursement Request**”), duly completed, to MCC not later than twenty (20) days (or such other period of time as may be agreed by MCC) prior to the commencement of each Disbursement Period. Requests for Disbursement of Program Funding and Compact Implementation Funding for any Disbursement Period shall be made by separate Disbursement Requests using the applicable form. Unless otherwise agreed by MCC, MCA-Senegal may submit only one Disbursement Request for Program Funding, and one Disbursement Request for Compact Implementation Funding, for each quarter (such quarter, or any other period of time as agreed by MCC, the “**Disbursement Period**”). Each Disbursement Request submitted must be accompanied by the Periodic Reports covering such Disbursement Period.

(b) Approval of Disbursement Requests; Release of Proceeds.

(i) Upon receipt of a Disbursement Request, MCC will determine the appropriate amount of the Disbursement for application during the subsequent related Disbursement Period based on, among other things, (1) the progress achieved under the Implementation Plan, (2) the amount of funds required to complete the activities described in the accompanying Periodic Reports during such Disbursement Period, and (3) the satisfaction, waiver, or deferral of applicable conditions precedent to such Disbursement. MCC reserves the right to reduce the amount of any Disbursement in accordance with Section 3.5 of this Agreement.

(ii) Upon MCC’s approval of a Disbursement Request, the proceeds of the approved Disbursement may be transferred, at MCC’s sole election, (1) to a Permitted Account, or (2) directly to (A) any provider of goods, works, and services as payment for such goods, works, or services received by MCA-Senegal or (B) any other recipient authorized to receive any portion of the approved Disbursement, in each case in accordance with the Common Payment System or any alternate payment system approved by MCC; *provided, however*, that expenditures of such proceeds (including amounts transferred directly pursuant to Section 4.1(b)(ii)(2)) are authorized by MCA-Senegal, and the related payment complies with the most recently approved Detailed Financial Plan and the standards and procedures set forth in the Fiscal Agent Agreement and the Fiscal Accountability Plan, as certified by the Fiscal Agent.

(c) Permitted Accounts.

(i) Unless otherwise agreed by MCC, prior to the initial Disbursement of Program Funding (and prior to any applicable Disbursement of Compact Implementation Funding, as set forth in Annex IV to the Compact), MCA-Senegal will establish an interest-bearing account in the local currency of Senegal (the “**Local Account**”) at a financial institution acceptable to MCC. The Local Account will be a Permitted Account. MCC and MCA-Senegal also may mutually agree in writing to the establishment of additional Permitted Accounts from time to time at financial institutions acceptable to MCC.

(ii) Unless otherwise authorized by MCC, no other funds will be commingled in a Permitted Account other than MCC Funding and accrued interest thereon. MCC will have the right, among other things, to view any Permitted Account statements and activity directly on-

line, and where such viewing is not feasible, the Government will provide copies of such statements to MCC upon its request. Before any MCC Funding is deposited into a Permitted Account, MCA-Senegal will enter into an agreement, in form and substance satisfactory to MCC, with the financial institution approved by MCC to hold such Permitted Account (the “**Bank**”) that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to such Permitted Account (the “**Bank Agreement**”).

(iii) MCC Funding held in a Permitted Account will accrue interest or other earnings in accordance with the Bank Agreement. On a quarterly basis, and upon the termination or expiration of the Compact or the Bank Agreement, MCA-Senegal will ensure the transfer of all accrued interest to MCC.

(iv) MCA-Senegal will provide in writing to MCC and the Fiscal Agent the account name, designated account number, and wire transfer instructions for transfers to Permitted Accounts (the “**Account and Wire Transfer Information**”) no later than ten (10) business days prior to the date on which the initial deposit is to be made to a Permitted Account. In the event that any Permitted Account or the related Account and Wire Transfer Information changes during the Compact Term, MCA-Senegal will provide to MCC and the Fiscal Agent the new information as soon as practicable, but in no event later than ten (10) business days prior to the requested date for the next Disbursement.

Section 3.2 Working Capital. Each Disbursement Request may authorize up to (i) one hundred thousand U.S. dollars (US\$100,000) of Compact Implementation Funding or (ii) five hundred thousand U.S. dollars (US\$500,000) of Program Funding (or, in each case, such other amount as MCC may approve) to serve as a contingent funding reserve (“**Working Capital**”) to be used exclusively for expenses included in the current MCC-approved Detailed Financial Plan as set out in, or as otherwise agreed to, in the Fiscal Accountability Plan.

Section 3.3 Conditions Precedent to Disbursement of Compact Implementation Funding. Prior to the initial Disbursement of Compact Implementation Funding or any subsequent Disbursement of Compact Implementation Funding, the applicable conditions set forth in Annex IV to the Compact must have been met to MCC’s satisfaction.

Section 3.4 Conditions Precedent to the Initial Disbursement of Program Funding. Subject to Section 3.6, the conditions of this Section 3.4 and the conditions set forth in Section 3.5 must have been met to MCC’s satisfaction prior to the initial Disbursement of Program Funding:

(a) Entry into Force. The Compact has entered into force as provided in Article 7 of the Compact.

(b) Officers. Each of the Officers has been selected and engaged by MCA-Senegal and approved by MCC.

(c) MCA-Senegal Certificate. MCA-Senegal has delivered a duly executed certificate substantially in the form provided by MCC, together with the attachments thereto.

(d) Fiscal Agent Certificate. The Fiscal Agent has delivered a duly executed certificate substantially in the form provided by MCC.

(e) Implementation Plan. MCA-Senegal has developed and adopted a complete Implementation Plan, and the plan has been approved by MCC.

(f) Bid Challenge System. In accordance with Section 2.1(d) of this Agreement, MCA-Senegal has established and adopted a BCS, in form and substance satisfactory to MCC, that provides suppliers, contractors, and consultants (interested parties) the ability to seek review of procurement actions and decisions.

(g) Irrigation Maintenance System Audit. Unless MCC agrees otherwise in writing, the Government, through the Ministry of Agriculture, has contracted with an independent auditor to audit the existing maintenance procedures and systems for its irrigation infrastructure in the project zones of the Irrigation and Water Resources Management Project, with the objective of identifying principal issues and developing an action plan (the “***Irrigation Maintenance Action Plan***”) to improve sustainability; *provided, however*, that the Government will apply national funds to satisfy its obligations under this Section 3.4(g) and no MCC Funding, proceeds thereof, or Program assets may be applied by the Government in satisfaction of its obligations under this Section 3.4(g).

Section 3.5 Conditions Precedent to Each Disbursement of Program Funding. Subject to Section 3.6, the following conditions must have been met to MCC’s satisfaction prior to each Disbursement of Program Funding (including the initial Disbursement of Program Funding):

(a) Deliveries. MCA-Senegal has delivered to MCC the following documents, in form and substance satisfactory to MCC:

(i) a completed Disbursement Request, together with the Periodic Reports covering the related Disbursement Period;

(ii) copies of any reports received from any technical (including, without limitation, environmental) auditors engaged by MCA-Senegal for any Project or Activity since the previous Disbursement Request;

(iii) except with respect to the initial Disbursement of Program Funding, a duly executed certificate of MCA-Senegal, dated as of the date of such Disbursement Request, substantially in the form provided by MCC (the “***MCA Disbursement Certificate***”);

(iv) except with respect to the initial Disbursement of Program Funding, a duly executed certificate of the Procurement Agent, substantially in the form provided by MCC (the “***Procurement Agent Disbursement Certificate***”); and

(v) except with respect to the initial Disbursement of Program Funding, a duly executed certificate of the Fiscal Agent, substantially in the form provided by MCC (the “*Fiscal Agent Disbursement Certificate*”).

(b) Other Conditions Precedent. MCC has determined in its sole discretion that:

(i) all applicable conditions precedent in Schedule 2 to this Agreement have been duly satisfied, deferred, or waived as provided in this Agreement;

(ii) no material default or breach of any covenant, obligation or responsibility by the Government, MCA-Senegal, or any Government entity has occurred and is continuing under this Agreement, the Compact, or any Supplemental Agreement;

(iii) activities to be funded with MCC Funding being requested by such Disbursement Request will not violate any applicable law or regulation;

(iv) the Implementation Plan Documents submitted to MCC are current and updated and are in form and substance satisfactory to MCC, and there has been satisfactory progress on the components of the Implementation Plan for any relevant Projects, Activities or sub-Activities related to such Disbursement;

(v) there has been satisfactory progress on the M&E Plan for the Program, any relevant Project, or any relevant Activity, and substantial compliance with the requirements of the M&E Plan (including the targets set forth therein and any applicable reporting requirements set forth therein for the relevant Disbursement Period);

(vi) there has been no material negative finding in any financial audit report delivered in accordance with the Compact and Audit Plan, for the prior two quarters (or such other period as the Audit Plan may require);

(vii) any Taxes paid with MCC Funding through the date ninety (90) days prior to the start of the applicable Disbursement Period have been reimbursed by the Government in full in accordance with Section 2.8 of the Compact;

(viii) any payment obligation of the Government arising through the date thirty (30) days prior to the start of the applicable Disbursement Period has been paid in full (or otherwise satisfied) by the Government, including, without limitation, any insurance, indemnification, tax payments, or other obligations, and the Government has contributed all resources required from it, under the Compact, this Agreement, and any Supplemental Agreement;

(ix) MCC does not have grounds for concluding that any matter certified to it in the related MCA Disbursement Certificate, Procurement Agent Disbursement Certificate, or Fiscal Agent Disbursement Certificate (or the equivalent documents delivered in connection with the initial Disbursement of Program Funding) is not as certified;

(x) no act, omission, condition, or event has occurred that would be the basis for MCC to suspend or terminate, in whole or in part, MCC Funding in accordance with Section 5.1 of the Compact; and

(xi) each of the Officers remains engaged, or if a position is vacant, MCA-Senegal is actively engaged, to MCC's satisfaction, in recruiting a replacement.

Section 3.6 Failure to Satisfy Conditions Precedent; Partial Disbursements. MCC may, in its sole discretion, disapprove any Disbursement completely or reduce the amount of any Disbursement by an amount equal to the amount requested for any Project or Activity for which the relevant conditions precedent have not been satisfied, waived, or deferred.

Section 3.7 Authorized Expenditures. Except as MCC otherwise agrees, a Disbursement, or financial commitment involving MCC Funding may be made, and a Disbursement Request may be submitted, only if the related expense is provided for in the Detailed Financial Plan and sufficient uncommitted funds exist in the Detailed Financial Plan for the relevant period.

ARTICLE 4.

EFFECTIVENESS OF THIS AGREEMENT

This Agreement will become effective upon signature of this Agreement by each of the Parties and delivery of the executed signature pages to MCC; *provided, however*, that no Program Funding will be made available or disbursed before Entry into Force.

ARTICLE 5.

GENERAL PROVISIONS

Section 5.1 Representatives. The provisions of Section 4.2 of the Compact are incorporated herein by reference as if fully set forth herein.

Section 5.2 Communications. Any document or communication required or submitted by any Party to another under this Agreement will be given in accordance with the notice provisions set forth in Section 4.1 of the Compact.

Section 5.3 Assignments.

(a) Assignment by MCC. MCC (acting on behalf of the United States) may assign, delegate, or contract its rights and obligations, in whole or in part, under this Agreement to any affiliate, agent, or representative of MCC without the prior consent of the Government. MCC will use its best efforts to provide written notice to the Government prior to the effectiveness of any such assignment, delegation, or contract.

(b) Assignment by the Government. The Government may not assign, delegate, or contract its rights or obligations under this Agreement without MCC's prior written consent.

(c) Amendment; Waivers. The Parties may amend this Agreement only by a written agreement signed by the Principal Representative of each Party. Any amendment of this Agreement pursuant to this Section 5.3(c), shall be binding on the Government without the need for further action by the Government, any further parliamentary action, or satisfaction of any additional domestic requirements of Senegal. Any waiver of a right or obligation arising under this Agreement will be effective only if provided in writing.

Section 5.4 Interpretation. Unless the context requires otherwise: (a) any definition of, or reference to, any agreement, instrument, or other document herein will be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein); (b) the words "herein," "hereof" and "hereunder," and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision hereof; (c) all references herein to Articles, Sections, and Schedules will be construed to refer to the Articles and Sections of, and Schedules to, this Agreement (except as expressly provided otherwise), all of which form an integral part of this Agreement; (d) any reference to "MCA-Senegal" in this Agreement will be deemed to mean "MCA-Senegal (and MFG-MCA prior to MCA-Senegal's establishment)," except as expressly provided otherwise; (e) any approval right granted to MCC herein shall only be satisfied upon the prior written approval of MCC; (f) any reference to the term "including" in this Agreement will be deemed to mean "including, without limitation," except as expressly provided otherwise; and (g) the Section and Subsection headings used in this Agreement are included for convenience only and are not to be considered in construing or interpreting this Agreement.

Section 5.5 Inconsistencies. In the event of any conflict or inconsistency between this Agreement and the Compact, the terms of the Compact will prevail. In the event of any conflict or inconsistency between this Agreement and any Supplemental Agreement or any Implementation Plan Document, the terms of this Agreement will prevail.

Section 5.6 Business Days. Any reference to "business days" will mean any day other than a Saturday, Sunday, commercial banking holiday in Senegal or Washington, D.C., United States, or a national holiday in Senegal or the United States; and any reference to "day" will mean a calendar day. Whenever under the terms hereof the time for giving a notice or performing an act falls on a day that is not a business day, such time will be extended to the next day that is a business day.

Section 5.7 Termination or Suspension of the Compact.

(a) Subject to Section 5.1(c) of the Compact, all Disbursements and expenditures of Disbursement proceeds will cease upon expiration, suspension, or termination of the Compact. Other than payments permitted pursuant to Section 5.1(c) of the Compact, in the event of the suspension or termination, in whole or in part, of the Compact, this Agreement, or any

Supplemental Agreement, the Government will, except as MCC otherwise consents, ensure the suspension or, as applicable, termination of any obligation or sub-obligation to provide financial or other resources under the Program. In the event of such suspension or termination, the Government will use its best efforts to ensure the suspension or, as applicable, termination of all related commitments of MCC Funding. Any portion of the Compact, this Agreement, or any Supplemental Agreement that is not suspended or terminated will remain in full force and effect.

(b) Upon the full or partial suspension or termination of the Compact or any MCC Funding pursuant to Section 5.1 of the Compact, MCC may, at its expense, direct that title to any Program Assets it may specify be transferred to MCC if such Program Assets are in a deliverable state; *provided, however*, that, for any Program Asset not in a deliverable state and any Program Asset partially purchased or funded with MCC Funding, the Government will reimburse MCC in United States dollars the cash equivalent of such portion of the fair market value of such Program Asset, such value as determined by MCC.

(c) Prior to expiration, or upon termination, of the Compact, the Parties will consult in good faith with a view to reaching an agreement in writing on (i) the post-Compact Term treatment of MCA-Senegal, (ii) the process for ensuring the refund of MCC Funding that has not yet been released from a Permitted Account or committed in accordance with Section 5.1(c) of the Compact, and (iii) any other matter related to the winding up of the Program and the Compact.

Section 5.8 Termination of this Agreement.

(a) MCC may terminate this Agreement without cause in whole or in part by giving the Government thirty (30) days' written notice. Upon giving notice of its intent to terminate the Compact in whole in accordance with Section 5.1(a) of the Compact, the Government may terminate this Agreement in whole by giving MCC thirty (30) days' written notice.

(b) Unless terminated earlier in accordance with the terms hereof or the Compact, this Agreement will terminate on the date that is one hundred twenty (120) days following the expiration or termination of the Compact; *provided, however*, that, if MCC determines that obligations incurred (and previously approved by MCC in connection with a Disbursement Request) prior to the expiration or termination of the Compact remain to be paid, then the term of this Agreement may be further extended by MCC's notice to the Government and MCA-Senegal until such date as such obligations are satisfied.

(c) MCC may immediately terminate this Agreement, in whole or in part, by written notice to MCA-Senegal and the Government, if MCC determines that any event that would be a basis for termination or suspension of the Compact or MCC Funding under Section 5.1(b) of the Compact has occurred, including those circumstances stated at the MCC Website.

Section 5.9 Survival. Notwithstanding any expiration, suspension or termination of this Agreement, the following provisions of this Agreement will survive: Sections 1.2(b), 1.3(a), 1.3(b), 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11 and 5.12.

Section 5.10 English Language. This Agreement is executed in English and in the event of any ambiguity or conflict between this official English version and any translation prepared for the convenience of the Parties, this official English version will prevail.

Section 5.11 Governing Law. The Parties acknowledge and agree that this Agreement is an international agreement entered into for the purpose of implementing the Compact and as such will be interpreted in a manner consistent with the Compact and will be governed by the principles of international law.

Section 5.12 Counterparts; Electronic Delivery.

(a) Counterparts. This Agreement, and any amendment or agreements arising out of this Agreement, may be executed in one or more counterpart signatures, and each counterpart when so executed and delivered shall be an original instrument, but such counterparts together shall constitute a single agreement.

(b) Electronic Delivery. A signature to this Agreement shall be delivered only as an original signature. With respect to all other signatures, including to an amendment or any other agreement arising out of this Agreement, a signature delivered by facsimile or electronic mail in accordance with Section 5.2 of this Agreement shall be deemed an original signature and shall be binding on the Party delivering such signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying document, certificate, notice, instrument, or agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form.

SIGNATURE PAGE FOLLOWS ON THE NEXT PAGE

IN WITNESS WHEREOF, each Party has caused this Program Implementation Agreement to be executed by a duly authorized representative as of the date first written above.

**THE UNITED STATES OF AMERICA,
ACTING THROUGH THE MILLENNIUM CHALLENGE CORPORATION**

/ s /

By: _____
Name: Darius Mans
Title: Acting Chief Executive Officer

THE REPUBLIC OF SENEGAL

/ s /

By: _____
Name: Abdoulaye Diop
Title: Minister of Economy and Finance

SCHEDULE 1

DEFINITIONS

***Account and Wire Transfer Information** has the meaning provided in Section 3.1(c)(iv).*

***Agreement** has the meaning provided in the Preamble.*

***Applicable ESA Documentation** has the meaning provided in paragraph 1(b) of Schedule 2.*

***Audit Plan** has the meaning provided in Section 2.1(c).*

***Auditor** has the meaning provided in Section 2.11(c).*

***Auditor / Reviewer Agreement** has the meaning provided in Section 2.11(c).*

***Bank** has the meaning provided in Section 3.1(c)(ii).*

***Bank Agreement** has the meaning provided in Section 3.1(c)(ii).*

***BCS** has the meaning provided in Section 2.1(d).*

***Common Payment System** means the system pursuant to which payments of MCC Funding are made directly to vendors as further described in the Fiscal Accountability Plan.*

***Compact** has the meaning provided in the Recitals.*

***Designated Rights and Responsibilities** has the meaning provided in Section 1.3(a)(i).*

***Detailed Financial Plan** has the meaning provided in Section 2.1(b).*

***Disbursement Period** has the meaning provided in Section 3.1(a).*

***Disbursement Request** has the meaning provided in Section 3.1(a).*

***Entry into Force** means the entry into force of the Compact as provided in Article 7 of the Compact.*

***Fiscal Accountability Plan** has the meaning provided in Section 2.2.*

***Fiscal Agent Agreement** has the meaning provided in Section 2.11(b).*

***Fiscal Agent Disbursement Certificate** has the meaning provided in Section 3.5(a)(v).*

***Governing Document** has the meaning provided in Section 2.10(g).*

***Government** has the meaning provided in the Preamble.*

***Government Responsibilities** means all of the Government's obligations under this Agreement, the Compact, any Supplemental Agreement, the Implementation Plan, and the Program Guidelines, and any post-Compact Term activities, audits, or other responsibilities.*

***GPF** has the meaning provided in paragraph 1(a) of Schedule 3.*

***Implementation Plan** has the meaning provided in Section 2.1.*

***Implementation Plan Document** has the meaning provided in Section 2.1.*

***Irrigation Maintenance Action Plan** has the meaning provided in Section 3.4(g).*

***Land Allocation Procedures** has the meaning provided in paragraph 3(c) of Schedule 2.*

***Lien** has the meaning provided in Section 1.2(b)(iv).*

***Local Account** has the meaning provided in Section 3.1(c)(i).*

***M&E** means monitoring and evaluation of each Project, the Program and the Objectives pursuant to the M&E Plan.*

***Maintenance Funding Gap** has the meaning provided in paragraph 2(a) of Schedule 2.*

***Material Agreement** has the meaning provided in Section 2.10(c).*

***MCA Disbursement Certificate** has the meaning provided in Section 3.5(a)(iii).*

***MCA-Senegal Website** has the meaning provided in Section 2.1(d), with an address to be provided to MCC promptly upon establishment of the website.*

***MCC** has the meaning provided in the Preamble.*

***MCC Cost Principles** means the guidance document entitled “Cost Principles for Government Affiliates Involved in Compact Implementation” delivered by MCC to the Government or posted on the MCC Website, as such guidelines may be amended from time to time.*

***MCC Website** means the MCC website at www.mcc.gov.*

***Multi-Year Financial Plan** has the meaning provided in Section 2.1(b).*

***Observer** has the meaning provided in the Governance Guidelines.*

***Officer** has the meaning provided in the Governance Guidelines.*

***Outside Project Manager** has the meaning provided in Section 2.11(a).*

***Party** or **Parties** has the meaning provided in the Preamble.*

***Periodic Report** has the meaning provided in Section 2.9(a).*

***Permitted Designee** has the meaning provided in Section 1.2(a).*

***POAS** has the meaning provided in paragraph 1(b) of Schedule 3.*

***Procurement Agent Agreement** has the meaning provided in Section 2.11(d).*

Procurement Agent Disbursement Certificate has the meaning provided in Section 3(a)(iv).

Procurement Plan has the meaning provided in Section 2.1(d).

Program Assets include MCC Funding, interest accrued thereon, and any assets, goods, or property (real, tangible, or intangible) purchased or financed in whole or in part (directly or indirectly) by MCC Funding.

Quarterly Financial Report has the meaning provided in Section 2.9(a)(i)(2).

Reviewer has the meaning provided in Section 2.11(c).

Safeguard Action Plan has the meaning provided in paragraph 1(c) of Schedule 2.

Senegal has the meaning provided in the Preamble.

Supplemental Agreement means any agreement executed in connection with the Compact.

Work Plan has the meaning provided in Section 2.1(a).

Working Capital has the meaning provided in Section 3.2.

SCHEDULE 2

CONDITIONS PRECEDENT

1. Conditions Precedent for all Projects.

(a) Prior to the initial Disbursement of Program Funding that includes, in whole or in part, funding for a specific Project and/or Activity, MCA-Senegal shall have duly executed an Implementing Entity Agreement, in form and substance satisfactory to MCC, with the applicable Implementing Entity involved in the implementation of such Project and/or Activity, and such Implementing Entity Agreement shall be in full force and effect without modification, alteration, rescission, or suspension of any kind, unless otherwise agreed by MCC, and no material default shall have occurred or be continuing thereunder.

(b) Prior to the initial Disbursement of Program Funding that includes, in whole or in part, payment under a particular works or construction contract for a given Project and/or Activity (or any component or segment thereof, as the case may be) (and, with respect to sub-clause (ii) hereof, prior to each such Disbursement thereafter), MCA-Senegal shall have submitted evidence satisfactory to MCC demonstrating that an environmental review has been completed in accordance with the MCC Environmental Guidelines with respect to such Project and/or Activity (or component or segment thereof, as the case may be), which environmental review may include, without limitation, an SEA, EIA, EA, EMP, HIV/AIDS awareness plan, and/or RAP (collectively, the “***Applicable ESA Documentation***”) and (ii) MCA-Senegal, or the appropriate Government entity, is in compliance with the requirements of the Applicable ESA Documentation with respect to such Project and/or Activity (or component or segment thereof, as the case may be) in accordance with the MCC Environmental Guidelines.

(c) Prior to any disbursement of Program Funding that includes, in whole or in part, funding for the Social Safeguard Measures Activity: (i) MCC and MCA-Senegal shall have agreed on an action plan for such Activity (the “***Safeguard Action Plan***”), which shall include, *inter alia*, a comprehensive description of and budget for the civil works to be undertaken in connection with Activity (which information must be verified by MCC), as well as information regarding the staffing, equipping, and day-to-day operation and maintenance of the centers to be financed through the Activity and (ii) MCC shall have agreed in writing to provide MCC Funding for such Activity. For the avoidance of doubt, MCA-Senegal will submit the Safeguard Action Plan for MCC’s review prior to initiating any procurements or related activities with respect to the Social Safeguard Measures Activity, and any use of MCC Funding for the Social Safeguard Measures Activity is entirely contingent upon the satisfaction of the conditions described in this Section 1(c).

(d) Prior to any disbursement of MCC Funding in or for Year 5 of the Compact Term, the Government shall have presented a plan pursuant to which it will assume all of the contractual, financial, and other obligations of MCA-Senegal upon expiration of the Compact Term, including, but not limited to, any severance payments owed to MCA-Senegal’s employees upon the termination or expiration of their respective employment contracts.

2. Conditions Precedent for Roads Rehabilitation Project.

(a) Prior to each disbursement after the initial disbursement of Program Funding that includes, in whole or in part, funding for construction or physical works relating to the Roads Rehabilitation Project, MCC shall be satisfied that the Government has reduced the shortfall between the actual maintenance budget received by AATR and the maintenance budget requirements of AATR (calculated as a percentage of the required maintenance budget, the “**Maintenance Funding Gap**”) in substantial compliance with the annual budget targets specified below:

- The Maintenance Funding Gap shall be reduced to no more than 20% for 2010;
- The Maintenance Funding Gap shall be reduced to no more than 16% for 2011;
- The Maintenance Funding Gap shall be reduced to no more than 12% for 2012;
- The Maintenance Funding Gap shall be reduced to no more than 8% for 2013;
- The Maintenance Funding Gap shall be reduced to no more than 4% for 2014; and
- The Maintenance Funding Gap shall be reduced to 0 for the 2015.

For the purposes of calculating the Maintenance Funding Gap, MCA-Senegal shall also present AATR’s annual maintenance budget requirements (as formulated by AATR) to MCC for review upon preparation of the same.

3. Conditions Precedent for the Irrigation and Water Resources Management Project.

(a) Prior to the initial disbursement of Program Funding that includes, in whole or in part, funding for construction or physical works relating to the Irrigation and Water Resources Management Project, the Government, through the Ministry of Agriculture, shall have approved and adopted the Irrigation Maintenance Action Plan, in form and substance satisfactory to MCC.

(b) Prior to each disbursement after the initial disbursement of Program Funding that includes, in whole or in part, funding for construction or physical works relating to the Irrigation and Water Resources Management Project, MCA-Senegal shall have submitted evidence satisfactory to MCC demonstrating the Government’s compliance with the requirements the Irrigation Maintenance Action Plan.

(c) Prior to the initial disbursement of Program Funding that includes, in whole or in part, funding for construction or physical works relating to the Irrigation and Water Resources Management Project (and, with respect to sub-clause (ii) hereof, prior to each such Disbursement thereafter), the Government, through the relevant administrative authority, shall have adopted and published an “*arrêté*” that establishes a process and criteria for the allocation of land based on the laws of Senegal (the “**Land Allocation Procedures**”), which Land Allocation Procedures shall be consistent with the core principles attached as Schedule 3 to this Program

Implementation Agreement, and which shall be satisfactory to MCC and (ii) MCA-Senegal shall have submitted evidence satisfactory to MCC demonstrating that the Land Allocation Procedures remains in full force and effect throughout the Compact Term.

(d) Prior to the initial disbursement of Program Funding that includes, in whole or in part, funding for construction or physical works relating to the Irrigation and Water Resources Management Project (and, with respect to sub-clause (ii) hereof, prior to each such Disbursement thereafter), the Government, through the relevant administrative authority, shall have adopted and published an “*arrêté*” creating the technical land allocation committee(s) that will support the local rural and communal council(s) in applying the Land Allocation Procedures for any given local collective in the Project zone, and (ii) MCA-Senegal shall have submitted evidence satisfactory to MCC demonstrating that such “*arrêté*” remains in full force and effect throughout the Compact Term.

(e) Prior to any disbursement of Program Funding that includes, in whole or in part, funding for the Land Tenure Security Activity, MCC shall be satisfied that the Government has made available to the local rural and communal council(s) in the Project areas the resources and support required to fulfill their land administration duties, including, without limitation, making available to the rural councils (or similar entities) “*les secrétaires communautaires*.”

SCHEDULE 3

LAND ALLOCATION CORE PRINCIPLES

This Schedule 3 sets forth the core principles that will govern land allocation decisions in the rehabilitated and newly irrigated perimeters within the project zone of the Irrigation and Water Resources Management Project. The Parties agree that these core principles will provide the starting point for the consultant to be procured by MCC with financing provided pursuant to that certain the 609(g) Grant and Implementation Agreement, by and between MCC and the Government, dated April 1, 2009. This consultant will be charged with completing and validating these core principles with key stakeholders in each local collective, and developing them further for site-specific application.

1. Selection Criteria for Land Allocation.

(a) Targeted groups of beneficiaries. Allocations of land rights in connection with the Land Tenure Security Activity will be conducted according to the following priorities:

- Existing rights holders¹;
- Local² vulnerable groups (defined as including: women, particularly poor women, landless herders, and landless agricultural workers):
 - consistent with current practice in certain parts of the Valley, at least 10% of parcels would be reserved for *Groupeement de Promotion Féminine* (“**GPF**”) (The minimum reserve of 10% for GPF will be understood as a mechanism to extend benefits to poor women through their associations, and not as a ceiling for titles to women, who may also apply as individuals.);
 - to the extent that recipients of land allocations are required to demonstrate experience in farming, financial capacity to put parcels into production, adequate labor availability or other criteria, special exemption or dispensation shall be given to members of vulnerable groups;
- Local collective residents who do not currently have a parcel within the project zone;
- Private investors in small or medium-scale agricultural production who reside outside the local collective but within the Valley;

¹ For purposes of this Schedule 3, “existing rights holders” are defined broadly as anyone holding a land or property right within a planned irrigated perimeter, whether customary or formal and whether documented or undocumented, including current occupants or users.

² “Local” is defined as people currently residing within the Department of Dagana or Podor, as applicable.

- Private investors in small or medium-scale agricultural production who reside outside the Valley; and
- Other categories as appropriate.

(b) Distribution of parcels by size and quantity. The allocation of land under the Activity seeks to achieve equity and poverty reduction among the rural population while recognizing that the circumstances of households differ and that there are employment and demonstration benefits to be gained from the presence of larger more commercially-oriented farming operations. These considerations will lead to decisions regarding the optimal size and quantity of parcels in various zones. In general, determinations about parcel size and quantity should be consistent with the following principles:

- The size and quantity of parcels in any given perimeter should be sufficient to satisfy the demands of local families and vulnerable groups;
- Parcels should be larger than that deemed necessary to allow poor beneficiaries to exit from poverty;
- No parcel should be larger than 50 ha; and
- Parcels should be of a size, location, and quantity that is consistent with the relevant *Plan d'Occupation et D'affectation des Sols* (“**POAS**”), as it may be amended from time to time.

These principles should not be construed to be absolute, but rather should function as general guidelines subject to refinement, validation and site-specific application in particular perimeters.

2. Land Allocation Institutions and Procedures.

(a) Principles of land allocation. The Parties agree that the conditions and procedures of land allocation shall be governed by the following principles:

- Procedures will be open and transparent;
- Allocations will be made by the relevant rural or communal council in accordance with existing Senegalese law, based on recommendations from land allocation committees;
- Allocations of parcels will be considered by land allocation committees (see below for required representation on the commission), which will make recommendations for allocations to the relevant rural or communal council;
- The process will include a public information campaign (which will include, without limitation, detailed explanation of options and conditions);
- Committee meetings will be open to the public;

- Committee members must have the time to carry out their duties in a thorough manner and must work in the project zone of the Irrigation and Water Resources Management Project;
- Independent third-party audits will be conducted to ensure compliance with allocation procedures;
- The process will include options for mediation of conflicts; and
- An institutional ombudsman will be nominated/established to receive and review complaints.

(b) Land allocation Committees. The Parties agree that a land allocation committee, which will be a technical committee under the direction of the local collective, will be established in each local collective according to a prefectural or sub-prefectural decision (*arrêté*) prior to the acceptance of applications for land rights in any irrigated perimeter in the relevant Collective. The committee members will be named in the prefectural or sub-prefectural decision (*arrêté*) and will include at least the following:

- A representative of women's interests;
- A representative of the youth community movement;
- A member designated to represent MCA;
- A representative of the *commission domaniale*; and
- A representative of an *organisation paysanne*.

(c) Location of parcels within the irrigated perimeter. Location of parcels within any given perimeter will be guided by the following principles:

- Preservation of social cohesion to the extent possible;
- Maximization of a participatory process; and
- There will be a process for determining whether scattered or concentrated holdings are preferable for groups of beneficiaries, such as women.

3. Responsibilities and Rights of Beneficiaries.

Recipients of land allocations will be subject to the following rights and responsibilities:

- All beneficiaries will receive *titres d'affectation*, which will be subject to development (*mise en valeur*) requirements;

- Beneficiaries will have free choice in crop selection and timing, while maintaining respect for surrounding soil characteristics, agreed overall water distribution patterns and best technical practices;
- The rights to water are guaranteed (if fees have been paid and other applicable conditions met);
- All beneficiaries must comply with the applicable requirements of the *Charte du Domaine Irrigué*;
- Land rights can be lost due to non-payment of water charges or maintenance fees; and
- Where enabled by a legal marriage certificate, joint (spousal) *titres d'affection* may be delivered if desired by the recipients.